CASE COMMENT: DR. BAIS SURGICAL AND MEDICAL INSTITUTE PVT LTD v DHANANJAY PANDE (2026): SUBSTANCE OVER FORM IN DETERMINING CORPORATE MEMBERSHIP

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INTRODUCTION

In Company Law, Corporate Membership defines a person whose name is entered in the register of members of a company. A member is a person whose name is officially recorded as the owner of shares in a company or legally belongs to the company as a shareholder. Members have some particular rights exercised only by them under the Companies Act 2013. The Rights are for Voting purposes, receiving dividends, being a part of the meetings, and seeking statutory remedies. Therefore, the legal status of members is essential in determining whether a person can enforce rights against the company.[1] However, the Act also mandates that the company maintain an official record of its members, including details of shareholders, people holding debentures, and holders of other securities issued by the company.[2]

One of the most important issues is that minority shareholders may face discrimination or unfair treatment by the head of the company, who controls the company wholly or partially. To deal with certain situations, the Companies Act 2013 provides some remedies against oppression and mismanagement. The Act allows members to approach the National Company Law Tribunal (NCLT) when the members of a company are treated unfairly or improperly.[3] The Tribunal Provides Relief to the members to ensure the ends of justice.[4] It also determines certain qualifications for the members to seek relief, and the tribunal may waive the requirements and allow a member to file the petition even if the qualifications are not met.[5]

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[1] Companies Act 2013, ss 2 (55)
[2] Companies Act 2013, s 88
[3] Companies Act 2013, s 241
[4] Companies Act 2013, s 242
[5] Companies Act 2013, s 244

The Tribunal mainly checks fairness, not just qualification requirements and technical rules. If a company's actions are unfair and cause harm to its members, relief can be provided. Not every act or mistake in a company is considered oppression; it becomes oppression only when the conduct is seriously harmful and unfair to members or minority shareholders.[6]

The concept of membership and qualification to seek relief from oppression and mismanagement used to be governed under sections 2 (27), 41, 397, 398, and 399.[7] Their Modern counterparts are established under Sections 2(55), 241, 242, and 244 of the Companies Act, 2013.

The case of Dr Bais Surgical and Medical Institute Pvt Ltd v Dhananjay Pande (2026) is prominent; the Supreme Court clarified "deemed membership" under the Companies Act in the BAIS SURGICAL CASE. The case revolved around a person who had invested substantial funds in a company, served as its managing director, and was treated in several respects as an owner of the enterprise. Despite this, his name was not formally entered in the register of members. Therefore, this dispute raises the question of whether technical legal requirements should outweigh a person's real ownership rights in a company.

The Supreme Court focuses mainly on the facts and fairness of the case rather than merely on technical legal formalities. While deciding the case, the court relied on the purpose of the oppression and mismanagement provisions and earlier decisions such as World-Wide Agencies Pvt Ltd v Margaret T Desor and Needle Industries Newey (India) Holdings Ltd,[8] and stated that the genuine shareholder interest should not be denied merely because of procedural default.

FACTS OF THE CASE

The Company was incorporated in 1994 and established to operate a hospital. The appellant was a director/shareholder. Due to some Financial difficulties of the hospital, Dhanajay Pande agreed to invest substantial funds in the company with conditions to be appointed as a managing director and the conversion into Cardia Hospital. He claims that the shares were allotted to him in recognition of his investment, and the claimed shares were allotted in the Board Meeting dated 15th July 1999, and the membership dispute has been ongoing since then. However, the company disputed this claim and did not issue the share certificates.

[6] *Needle Industries (India) Ltd v Needle Industries Newey (India) Holding Ltd* [1981] 3 SCC 333(SC)
[7] Companies Act 1956 (Act No 1 of 1956)
[8] *World Wide Agencies Pvt Ltd v Margaret T Desor* (1990) 67 Comp Cas 607 (SC)

Subsequently, a dispute arose regarding the management and control of the company. Pande filed a petition under sections 397and 398 alleging oppression and mismanagement and the company's failure to issue share certificates. The company challenged the petition on the ground that he was not a member under Section 399.[9] A member can only approach the tribunal if they satisfy the conditions under Section 399, which specifies the minimum membership or shareholding required to file an oppression and mismanagement petition before the tribunal. The Company Law Board held him to be a member, and the High Court affirmed this, leading to an appeal before the Supreme Court.

ISSUES BEFORE THE COURT

1. Whether a person whose name is not registered in the register of members can still be regarded as a member for the purpose of maintaining a petition under sections 397 and 398.[10]
2. Whether the term "Member" should be interpreted strictly under section 41 or broadly under section 2 (27).[11]
3. Whether substantive shareholder rights can be defeated merely because of technical non-compliance.

JUDGEMENT AND REASONING

Court's Interpretation of "Member": The Supreme Court clarified that Sections 2(27) and 41 serve different purposes under the Companies Act of 1956. While Section 2(27) broadly defines who may be treated as a member of a company, Section 41 states the procedural methods through which membership is acquired by a company. The Court emphasised that these provisions should not be interpreted overly technically. Therefore, when determining eligibility to seek relief against oppression and mismanagement under Sections 397, 398, and 399, the concept of membership must be assessed substantively and purposefully rather than solely by reference to the formal requirements contained in Section 41.

Reliance on the Shri Balaji Textile Case: The court relied on the Shriji Balaji Textile case, where the Karnataka High Court held that the meaning of 'member' should not always be restricted to Section 41. A broader definition should be used where necessary to achieve the

[9] Companies Act 1956 (Act No 1 of 1956)
[10] Companies Act 1956, ss 41, 397, 398, 399
[11] Companies Act 1956, ss 2 (27), 41

ends of justice and relief.[12] Sometimes, statutory provisions may lead to injustice and irregularities and frustrate the possibility of relief and remedies.

Purpose of Oppression Mismanagement Remedies: Sections 397 and 398 are equitable remedies intended to protect minority shareholders and members. Technical interpretations would defeat the purpose of this statute. The objective of these provisions is to provide effective relief to aggrieved members. Consequently, an overly rigid interpretation of membership requirements undermines the legislative purpose and potentially denies deserving parties access to justice.

Substance Over Form: The Supreme Court focuses on the transactions rather than their formal appearance, although the respondent's name has not been entered into the register of members. Several facts determine the respondent's name as a co-owner and shareholder of the company. The court relied on letters describing the respondent as a co-owner and appointed him as the managing director. The renaming of the hospital as the 'Ekvira Heart Institute' shows his family sentiments, and the investment made by him was accepted and utilised by the company.

Final Holding: The Supreme Court held that the respondent qualified as a member of the company and was therefore entitled to maintain the petition under Sections 397 and 398. It would have been unfair to deny him relief solely because of the absence of a formal entry in the register of the members. By prioritising substantive rights over formal compliance, the judgment reinforces the protective purpose of oppression and mismanagement remedies and ensures that shareholder rights are not rendered false impressions through technical objections.

CRITICAL ANALYSIS

Strengths: The judgment or decision in Dr Bais Surgical and Medical Institute Pvt Ltd v Kaushalya Devi.[13] This is a significant contribution to Indian company law because it strengthens the protection available to minority shareholders and states that the principle of substantive justice should prevail if it comes to procedural requirements. The judgment provided a new approach and demonstrated the Supreme Court's willingness to look beyond technical formalities and regularities.

[12] *Shri Balaji Textile Mills (P) Ltd v Ashok Kavle* AIR 1989 Kant 43
[13] *Dr Bais Surgical and Medical Institute Pvt Ltd v Dhananjay Pande* 2026 INSC 447

First, the judgment enhances minority shareholders' protection. Provisions relating to oppression and mismanagement were enacted to protect shareholders from unfair conduct by those controlling the company. If access to these remedies is denied solely because a person's name has not been formally entered in the register of members, majority shareholders could easily frustrate their legal claims by delaying or refusing registration. By recognising the respondent's genuine interest, the court must ensure that minority shareholders are not deprived of their statutory protection because of actions beyond their control or the negligence of others.

Second, the judgment prevents the misuse of technicalities by the police. Company management should not be allowed to depend on procedural defects when the same defects are created or perpetuated by the company itself. The court declared that strict rules may cause injustice to minority shareholders. This aspect of the judgment holds accountability and discourages manipulative corporate behaviour.

Third, the judgment acknowledges the commercial realities. In practice, ownership interests may exist even before all procedural requirements or formalities have been completed. Corporate transactions often create delays in documentation, transfer, processes, and registration requirements. The court recognises that business realities cannot always be reduced to the contents of a register. By considering the actual relationship between the shareholder and the company, the judgment reflects a practical understanding of how companies operate and ensures that legal rights correlate with commercial realities rather than mere paperwork.

Finally, the decision promotes fairness and equity, principles that have long guided judicial intervention in cases of oppression and mismanagement. The Supreme Court emphasised that the remedial provisions should be interpreted and applied in a manner that advances justice rather than defeats it. This reasoning is consistent with the approach adopted in Needle Industries (India) Ltd v Needle Industries Newey (India) Holdings Ltd,[14] where the court stressed that equitable considerations are central to resolving disputes involving oppressive conduct. Similarly, in Dr Bais Surgical, the court prioritised the genuine ownership interest of the respondent and ensured that procedural formalities did not become a reason for injustice. As a result, the judgment strikes an appropriate balance between legal certainty and equitable protection, making it an important precedent in the development of shareholder remedies under Indian company law.

[14] *Needle Industries (India) Ltd v Needle Industries Newey (India) Holding Ltd* [1981] 3 SCC 333(SC)

Weaknesses: One of the primary criticisms is that it may weaken the certainty traditionally associated with company records. Company law places considerable importance on the register of members because it provides an official and reliable record of who is entitled to exercise shareholder rights and who is not. By recognising membership based on a proprietary interest despite the absence of formal registration, the Court may have reduced the certainty that corporate records are intended to provide. A related concern is that the significance of the register of members under Section 88 of the Companies Act, 2013,[15] could be diminished or demolished. If courts increasingly look beyond the register or look at the results of advantages owned by any shareholder to determine shareholder status, companies may face difficulties in identifying who is legally entitled to participate in management, voting, or statutory proceedings. This could blur the distinction between legal and beneficial ownership. The importance of accurate shareholder records and transparency in corporate administration has been widely emphasised in company law scholarship.[16]

CONTEMPORARY RELEVANCE

The judgment remains highly relevant under Sections 241to 244 of the Companies Act, 2013, which govern remedies for oppression and mismanagement. In modern corporate disputes, questions relating to share transfers, beneficial ownership, and shareholder status frequently arise, making the principles established in Dr Bais Surgical and Medical Institute Pvt Ltd v Kaushalya Devi particularly significant. The approach is consistent with modern corporate governance principles that emphasise fairness, accountability, and effective shareholder protection.[17] The judgment strengthens minority shareholder protection by allowing courts and tribunals to focus on the substance of ownership rather than merely formal registration requirements. It also serves as an important precedent for proceedings before the National Company Law Tribunal (NCLT), guiding adjudicatory bodies in balancing corporate formalities with the broader objective of achieving fairness and preventing injustice in shareholder disputes.

[15] Companies Act 2013, s 88
[16] Paul L Davies and Sarah Worthington, *Gower: Principles of Modern Company Law* (11th edn, Sweet & Maxwell 2021) 479-482
[17] Avtar Singh, Company Law (18th edn, Eastern Book Company 2023) 618-625

CONCLUSION

The central issue in Dr Bais Surgical and Medical Institute Pvt Ltd v Kaushalya Devi was whether a person who held a genuine ownership interest in shares but whose name had not been formally entered in the register of members could maintain a petition for oppression and mismanagement. The Supreme Court resolved this issue by holding that membership for shareholder remedies cannot always be determined solely by formal registration. Instead, the Court examined the substance of the relationship between the shareholder and the company and recognised the respondent's genuine proprietary interest.

The judgment reflects a clear substance over form approach, ensuring that procedural technicalities do not defeat the purpose of protective provisions under company law. By focusing on the realities of ownership rather than strict compliance with corporate formalities, the Court prevented the misuse of registration requirements as a tool to deny legitimate shareholder rights.

The decision is particularly significant for minority shareholder protection because it strengthens access to remedies against oppression and mismanagement and promotes fairness in corporate governance. Its principles continue to hold relevance under the Companies Act, 2013, especially Sections 241 to 244, which seek to safeguard shareholders from unfair and prejudicial conduct. As a result, the judgment remains an important precedent for courts and tribunals dealing with modern shareholder disputes.